

EPA REGION III
REC NEWSLETTER
JANUARY 2004

COMMANDER, NAVY REGION, MID-ATLANTIC



*Working
for
Tomorrow's
Environment
Today*

We have made every effort to ensure that the information provided is accurate and that all significant Legislative, Regulatory, Federal, EPA, news and information have been included in the REC update. If you have an important issue or information that you would like to be included in our monthly update, or believe that information we have provided is incorrect, please contact us at (757) 444-3009 x394 or via E-mail: DODRECREGION3@cmr.navy.mil.

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LINK HELP

SECURE SITES – Links beginning with https:// may give a security error. To get around this problem copy the link and paste it in your browser.

DENIX - Many of our links are to DENIX. To subscribe to DENIX, go to: <https://www.denix.osd.mil/denix/register.html> and register. It's a good thing.

If you find a dead link and you really want the information, please contact us at DODRECREGION3@cmar.navy.mil and we will find the link for you. [Table of Contents](#)

If you or your organization would like to submit an article, story, or picture for future newsletters, please send them to [Gene Beale](#). Thanks.

SPOTLIGHT ON

DoD, EPA, AND PA PARTNER UP IN ENVIRONMENTAL PARTNERSHIP



Representatives from the EPA Region III, Commonwealth of Pennsylvania, and Department of Navy. From left: Stan Laskowski, Director, Environmental Assessment and Innovation Division; Kathleen McGinty, Secretary, Pennsylvania Department of Environmental Protection; and Captain Frank Aucremanne, Chief of Staff, Navy Region Mid-Atlantic

On 18 December 2003, the Department of Defense (DoD), Pennsylvania Department of Environmental Protection (DEP), and the Environmental Protection Agency (EPA) formalized its cooperative environmental partnership during a charter signing ceremony. The partnership's charter promotes the use of pollution prevention and other environmental techniques at military installations. About two-dozen participants signed the charter at a ceremony at the Defense Distribution Center in New Cumberland, Pennsylvania.

"The Department of Defense installations have always been, and always will be, integral parts of the communities that surround them," said Rear Admiral

Stephen Turcotte, Department of Defense Regional Environmental Coordinator for EPA Region 3 and Commander, Navy Region Mid-Atlantic. "We are proud of our environmental efforts and take pride in our relationships with local communities. We view this partnership as a further indication of our commitment to the citizens and environment of Pennsylvania."

"This cooperative agreement will strengthen the ability of each of us to take positive steps that conserve our natural resources," said DEP Secretary Kathleen McGinty. "Together, the Department of Defense, DEP, and EPA can share information and become more effective in our efforts

to improve the quality of the environment for everyone in the Commonwealth.”

Members of the partnership, environmental managers from defense installations, and state and federal environmental regulators meet regularly to provide a forum

to share ideas and discuss regulatory issues, updates and educational opportunities and are committed to achieving measurable environmental improvements by improving communications between their agencies. [Table of Contents](#)

BRAVO ZULU



Rear Admiral Stephen Turcotte congratulates Commander Dominick Yacono on his promotion.

On 7 Jan, LCDR Dominick Yacono, the Regional Environmental Counsel, was promoted to Commander. Dominick's family, co-workers, and friends attended the

ceremony. Commander Yacono was featured in our [June Newsletter](#). Click on the link to read his Bio. **Congratulations Dominick!!** [Table of Contents](#)

GENERAL INTEREST

White House Closing The Circle (CTC) Awards

The nomination period for the 2004 White House Closing the Circle (CTC) Awards has begun. Please distribute this notice to all people and organizations involved in green procurement, recycling, environmental management systems, waste/pollution prevention, and sustainable

design/green buildings. The Navy CTC Award lead POC is Ms. Tanya Courtney who can be reached at tanya.courtney@navy.mil, (202) 433-2515. Nomination packages should be submitted directly to the Office of the Federal Environmental Executive (OFEE) via the website. Additionally, an electronic copy should be sent to Ms.

Courtney for review to ensure the nominations meet the formatting and content requirements. If you have questions, contact the OFEE at (202) 564-1297. The submittal deadline is 30 Jan 04, and full instructions are available at www.ofee.gov. [Table of Contents](#)

Court Halts Plans To Scrap Ships, "Ship Not A Marine Structure"

A U.K. shipyard lost a court battle to dismantle a fleet of U.S. Navy ships when a British court ruled 15 Dec that the break up of the four ships would not be allowed on planning grounds because a ship is "not a marine structure" and is therefore not covered by a U.K. planning permission license for the dismantling of oil rigs. According to Justice Jeremy Sullivan, "In ordinary language, a ship is no more a marine structure than a car is a highway structure, a narrow boat is a canal structure, or a steam locomotive is a rail structure." Sullivan said Able U.K. must reapply for a planning license that dated back to 1997, a decision that

follows a separate challenge brought by Friends of the Earth 8 Dec 03). The environmental group successfully argued before the same court that the original license from the U.K. Environment Agency was flawed. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/17Dec03/21.doc.html> [Table of Contents](#)

Evolution Of The REC

Time changes all things, including the REC staff. Recent changes have added two categories, as well as faces to the REC office. John Ballinger and Marty Costello are now full-fledged members of our staff. Both are long time government employees in Commander, Navy Region, Mid-Atlantic environmental department. John is the Navy Environmental Regional Outreach Coordinator and Marty is the Environmental Management System Coordinator. Welcome aboard!! [Table of Contents](#)

TRUE CRIME STORIES

Oil Companies Pay \$6.4 Million To Settle MTBE Contamination Allegations

A group of oil companies and Lyondell Chemical Company have agreed to pay \$6.4 million to resolve a lawsuit involving groundwater supplies tainted by gasoline containing methyl tertiary butyl ether (MTBE). The settlement reimburses the city for all its costs related to the contamination, protects the city's drinking water wells, and ensures MTBE-gasoline will be removed from the aquifer that serves the community. Unocal Corp., Exxon Mobil Corp., Shell Oil Co., Tosco Corp., Texaco, Ultramar Corp., Kern Oil & Refining Co., and Lyondell Chemical Co. were among the defendants named in the case the city filed in 1999 after discovering MTBE in groundwater. The lawsuit alleged strict liability and contamination. The complete article is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/18Dec03/29.doc.html> [Table of Contents](#)

Cruise Ship Engineers Accused Of Making False Log Entries To Hide Oil Discharges

A federal grand jury in Miami has indicted three former senior engineers on the cruise ship SS Norway for allegedly making false log entries to conceal that the ship pumped oil-contaminated bilge waste into U.S. waters. Named in the five-count were Chief Engineers Knut Sorboe and Peter Solemdal and Senior First Engineer Aage Lokkebraten. The men, all Norwegian nationals, were employed by Norwegian Cruise Line Limited (NCL) at the time of the alleged offenses. The indictment alleges they conspired to make false entries and omit other information from the ship's "oil record books" to try to conceal the discharges from U.S. Coast Guard inspectors. An oil record book is a required pollution record. In 2002, NCL pleaded guilty and paid a \$1 million criminal fine and \$500,000 in community service in connection with the discharges. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/22Dec03/18.doc.html> [Table of Contents](#)

FEDERAL NEWS

BRAC

DoD Draft Selection Criteria For Closing And Realigning Military Installationsⁱ

The Department of Defense (DoD) has issued draft criteria for selection of bases for closure by the 2005 Defense Base Closure and Realignment Commission. The draft criteria are as follows:

Military Value

1. The current and future mission capabilities and the impact on operational readiness of the DoD's total force, including the impact on joint warfighting, training, and readiness.

2. The availability and condition of land, facilities and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for

the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

3. The ability to accommodate contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations and training.

4. The cost of operations and the manpower implications.

Other Considerations

1. The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

2. The economic impact on existing communities in the vicinity of military installations.

3. The ability of both the existing and potential receiving communities' infrastructure to support forces, missions, and personnel.

4. The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities. More information is available at: <http://a257.g.akamaitech.net/7/257/2422/14mar20010800/e-docket.access.gpo.gov/2003/pdf/03-31631.pdf>

CAA

EPA Identifies Proposed Non-Attainment Areas For New Ozone Standard

EPA has identified those geographic areas that they believe should be designated nonattainment under the 0.08 ppm 8-hour ozone standard. An area is in violation of the standard if it's fourth highest daily maximum 8-hour ozone average in a year, averaged over three consecutive years, is 0.085 parts per million or higher. EPA intends to make final designations on 15 Apr 04. In nonattainment areas, new plants and major modifications must meet the Lowest Achievable Emission Rate or LAER, defined as the most stringent emissions limitation derived for that type of plant. Also, to avoid increasing the total amount of a criteria pollutant in a nonattainment area, a new or expanding business must offset whatever emissions it intends to emit. Two areas of non-attainment in EPA Region III are the Washington DC area and the Norfolk, VA area. A complete list of designations is available at: <http://www.epa.gov/ozonedesignations/state.htm>.

Agency Proposes Early Action Compacts With 33 Likely Ozone Non-Attainment Areas

The EPA is proposing that 33 areas begin implementing plans early for meeting Clean Air Act regulations in return for the agency deferring its designation of those areas to be in nonattainment of the new eight-hour ozone standard. Under a proposed rule published 16 Dec, EPA would enter into Early Action Compacts with these 33 areas and to defer until 30 Sep 07, the effective date of their air quality designations. This is the first of three deferrals the counties will be granted, as long as they meet certain agreed-upon milestones. Areas that fail to meet their milestones will be dropped from the program and receive a nonattainment designation, with more rigid compliance conditions imposed on them by EPA. Areas in Region III affected by this action are the Winchester/ Frederick County, VA area, the Roanoke, VA, the Martinsburg, WV area, and Washington County, MD. More information is available at: <https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/16Dec03/19.doc.html>. The proposed rule is available at:

<http://www.epa.gov/fedrgstr/EPA-AIR/2003/December/Day-16/a31109.pdf> [Table of Contents](#)

EPA Releases Revisions To Criteria For Updating Particulate Standards

The EPA has released revisions to the criteria used to determine whether air quality standards for particulate matter should be modified. EPA's Office of Research and Development has revised Chapters 7 and 8 of the fourth external review draft of Air Quality Criteria for Particulate Matter. The revised chapters confirm EPA's 1997 conclusion that particulate matter air pollution is a serious health threat in much of the United States. EPA is seeking public comment on revised Chapters 7 and 8 of the criteria document. Submit comments to [Gary Koerber](mailto:Gary.Koerber@epa.gov) by 24 Jan 04. For more information on the latest revisions to Air Quality Criteria for Particulate Matter, contact Robert Elias of EPA's National Center for Environmental Assessment at (919) 541-4167 or elias.robert@epa.gov. Information also is available at:

<http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=75440>. Information on the particulate matter research request is available from Darrell Winner of the National Center for Environmental Assessment at (202) 564-6929 or winner.darrell@epa.gov. Information also is available at http://es.epa.gov/ncer/rfa/2004/2004_source_pm.html.

North Carolina May Seek EPA Intervention To Control Emissions From Nearby States

North Carolina plans to ask the EPA to control pollution, especially particulate matter, that drifts from neighboring states into North Carolina. North Carolina wrote a letter to the attorneys general of seven other states informing them of its intent to file a petition under Section 126 of the federal Clean Air Act (42 U.S.C. 7426), which allows for EPA action to control the migration of air pollution. The 5 Dec letter was sent to Georgia, Kentucky, Ohio, South Carolina, Tennessee, Virginia, and West Virginia, Cooper. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/10Dec03/33.doc.html> [Table of Contents](#)

Interstate Transport Of Fine Particulate Matter And Ozoneⁱⁱ

In advance of publication, EPA has posted a proposal to "find" that 29 States and the District of Columbia contribute significantly to nonattainment, or interfere with maintenance, of the national ambient air quality standards for fine particles (PM_{2.5}) and/or 8-hour ozone in downwind States. The EPA is proposing to require these upwind States to revise their State implementation plans to include control measures to reduce emissions of sulfur dioxide (SO₂) and/or nitrogen oxides (NO_x). EPA is proposing that the emissions caps for the affected States be implemented in two phases, with the first phase in 2010 and the second phase in 2015. The first phase caps would be 3.9 million tons for SO₂ and 1.6 million tons for NO_x. The proposed emissions reductions would be met by affected States using one of two options for compliance: 1) participating in an interstate cap and trade system that caps emissions from the electric generating sector; or 2) meeting an individual State emissions budget through measures selected by the State. Comments are due 60 days from publication. More information is available at:

http://www.epa.gov/interstateairquality/iaqr_preamble_final_v1.pdf [Table of Contents](#)

Leavitt Signs Emissions Trading Proposal To Cut Mercury Emissions At Power Plants

EPA Administrator Mike Leavitt signed a proposal 15 Dec to control emissions of mercury and other hazardous air pollutants from power plants through emissions trading. The proposal would establish a regulatory framework closely resembling President Bush's Clear Skies Initiative, which would require power plants to reduce emissions of mercury, as well as sulfur dioxide and nitrogen oxides, by about 70 percent by 2018. A parallel proposal, also signed 15 Dec by Leavitt, responds to the 2000 EPA regulatory

finding by calling for a Maximum Achievable Control Technology (MACT) standard equivalent to a mercury cap of 34 tons, about a 29 percent reduction, to be implemented in Dec 2007. EPA concluded in Dec 2000 that setting a MACT standard for coal- and oil-fired electric power plants under Section 112 of the Clean Air Act was "appropriate and necessary" because other provisions of the act would not adequately address the health hazards associated with mercury from coal and nickel from oil. EPA's Mercury Fact Sheet is available at:

<http://www.epa.gov/mercury/mercuryfact12-15final.pdf>.

More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/16Dec03/29.doc.html> [Table of Contents](#)

D.C. Circuit Blocks EPA Implementation Of Exemption From New Source Review

A federal appeals court 24 Dec blocked implementation of an EPA rule to exempt large numbers of power plants and other industrial facilities from pollution control requirements for new facilities. The U.S. Court of Appeals for the District of Columbia Circuit issued an order 24 Dec to stay an 27 Oct EPA rule expanding an exemption for routine maintenance projects from new source review requirements to install pollution controls. The 27 Oct rule, which is part of an overall reform of the program by EPA, expanded the routine maintenance exclusion to exempt facilities that are replacing equipment parts if the cost of the parts does not exceed 20 percent of the replacement value of a process unit. The rule was scheduled to take effect 26 Dec. The stay by the D.C. Circuit suspends that event indefinitely. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/29Dec03/11.doc.html> [Table of Contents](#)

CERCLA

CERCLA Applies Only To U.S. Propertyⁱⁱⁱ

The superfund law does not cover contaminated property outside the United States, a federal district court held 3 Dec in a case of first impression. The plain language of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) limits its reach to land in the U.S. states, territories and possessions, the U.S. District Court for the Northern District of California said, and there is not sufficient evidence to show that Congress intended anything more when it passed the hazardous substances law. The court dismissed a suit by a group of Filipinos who argued that the Navy and the Air Force unlawfully declined to carry out environmental assessments under CERCLA on two former military bases in the Philippines. More information is available at:

[http://www.cand.uscourts.gov/cand/judges.nsf/5c366d37fc7c791088256d480060b73a/035728e41644097a88256df6007f3b01/\\$FILE/02cv5651gdm2.pdf](http://www.cand.uscourts.gov/cand/judges.nsf/5c366d37fc7c791088256d480060b73a/035728e41644097a88256df6007f3b01/$FILE/02cv5651gdm2.pdf) [Table of Contents](#)

EPA Advising Regions On How To Address DoD Cleanup Backlog^{iv}

EPA headquarters has issued guidance to the agency's regional offices confirming the resolution of a standoff with military officials over how to address institutional controls (ICs) in cleanup documents at DoD sites. The dispute, which centered around which agency had final cleanup authority at military sites, had delayed remediation at nearly 100 Superfund sites. In late October, EPA backed a two-track approach suggested by DoD for implementing remedial objectives. The agency had negotiated with the Navy a set of principles that calls for detailed information about ICs and their implementation to be included in records of decision (RODs) at sites on the National Priorities List (NPL). However, EPA said it was willing to also consider the Air Force's preferred approach, which acknowledges EPA's enforcement authority after a ROD is signed but emphasizes the Air Force's responsibility for

implementing a remedy's objectives rather than meeting specific document deadlines. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DEA/16Dec03/16.doc.html> [Table of Contents](#)

EMS

Fort Lewis EMS Guide

In last month's newsletter ([December newsletter](#)), there was mention of a Fort Lewis EMS guide available. The link for additional information, such as significant aspects and

scoring criteria, was unintentionally left off. The additional information is available at:

https://www.denix.osd.mil/denix/DOD/Library/EMS/Additonal_Instructor_Materials/materials.html [Table of Contents](#)

EPCRA

Comment Deadline Extended For Options To Reduce Toxics Release Inventory Burden^y

The deadline to comment on several initiatives proposed by the EPA to reduce the time and cost burdens associated with annual reporting to the Toxics Release Inventory has been extended to 4 Feb 04. The article was mentioned in

the [November Newsletter](#). Send comments to [Gary Koerber](#) by 28 Jan 04. More information is available at: <https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/30Dec03/11.doc.html> [Table of Contents](#)

NATURAL RESOURCES

Wetlands Officials Seek New Alliances To Boost Protections

State wetlands managers are proposing a broad new policy to strengthen federal, state and local partnerships as a way of boosting national protection of wetlands following the Supreme Court's contentious 2001 Solid Waste Agency of Northern Cook County (SWANCC) ruling. The plan is modeled after a national floodplain management plan created in the 1960s that details a comprehensive federal, state and local partnership approach toward regulation and providing financial incentives to support increased protection. The need for enhanced state and local protection of wetlands has risen to the forefront after a 2001 high court ruling in SWANCC v. U.S. Army Corps of Engineers, which prohibited federal regulation of "isolated" wetlands based solely on the presence of migratory birds. Many state officials fear the ruling effectively removed thousands of acres of wetlands from federal oversight, and left states scrambling to implement their own plans to prohibit wetlands destruction and maintain water quality standards. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/PAL/24Dec03/19.doc.html> [Table of Contents](#)

\$17 Million Awarded To 10 States For Restoration, Conservation Programs

Nearly \$17 million in grants will be awarded to 10 states to benefit coastal wetlands, the Department of Interior announced 10 Dec. The grants, to be awarded by the U.S. Fish and Wildlife Service under the National Coastal Wetlands Conservation Program, will fund 20 projects aimed at restoring, conserving, and protecting wetlands in

coastal areas. State and private partners will contribute more than \$42 million to bolster the funding for the projects. The states receiving the funds, made available in the fiscal 2004 Interior Appropriations Act (P.L. 108-108), are: Alabama, Alaska, Connecticut, Florida, Massachusetts, New Jersey, South Carolina, Texas, **Virginia**, and Washington. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/11Dec03/18.doc.html> [Table of Contents](#)

Effort To Define U.S. Waters Dropped, But EPA, Corps To Retain 2003 Guidance

A rulemaking to clarify the definition of waters of the United States, particularly as it applies to isolated wetlands, is being dropped, the EPA and the U.S. Army Corps of Engineers announced 16 Dec. The agencies published an advance notice of proposed rulemaking in Jan 03 soliciting comment on the definition in order to determine the reach of federal jurisdiction over isolated, intrastate, nonnavigable bodies of water. The rulemaking was being considered as a way to clarify issues raised in a 2001 Supreme Court decision invalidating the Migratory Bird Rule used to assert jurisdiction over isolated wetlands. EPA Administrator Mike Leavitt announced the decision to pull back the advance notice, saying the agency and the corps would continue to rely on the 2003 guidance issued at the same time to make jurisdictional determinations. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/17Dec03/11.doc.html> [Table of Contents](#)

PARTNERSHIPS

New ECOS Grants Seek To Improve State-EPA Partnership Pacts

The Environmental Council of the States (ECOS), which represents state environmental commissioners, has launched a new grant program that seeks to ensure state environmental agencies' priorities are recognized in the annual agreements they sign with EPA. At issue is the National Environmental Performance Partnership System (NEPPS), under which EPA and the states develop annual agreements, known as performance partnership agreements

and performance partnership grants. The agreements outline annual state environmental commitments, EPA funding requirements and other measures. EPA and the states have been negotiating for years on ways to reform the NEPPS system, with the parties meeting most recently last month to address state concerns about the program. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/CAR/18Dec03/06.doc.html> [Table of Contents](#)

RANGES

Defense Science Board Calling On DoD To Double UXO Budget

The Defense Science Board is recommending that the Pentagon more than double its annual expenditures for unexploded ordnance (UXO) cleanup and detection technology development. Increasing the spending from a current annual level of \$200 million to \$450 million would allow the Department of Defense (DoD) to potentially free up millions of acres of land that may contain UXO but

more likely are just located near the UXO-contaminated land. Additionally, the board is recommending DoD focus on encouraging larger companies to conduct UXO remediation, continuing development of non-polluting munitions and exploring the true life-cycle costs of training with live munitions. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DEA/16Dec03/01.doc.html> [Table of Contents](#)

RCRA

EPA Extends Comment Period On Proposal For Identification, Exclusion Of Some Wastes

Industry representatives, environmental advocates, and others will have another 30 days to submit comments on a proposed rule that would exclude 1.5 million tons of hazardous waste annually from federal hazardous waste regulations. The rule, which took 10 years to develop, was proposed 28 Oct. The proposed rule, published in the 29 Dec Federal Register, would redefine solid waste so certain recyclable hazardous secondary materials would be considered as not discarded and thus no longer considered waste subject to regulation under the Resource Conservation and Recovery Act. The proposal also would establish specific regulatory criteria for determining whether hazardous materials are recycled legitimately. The action is expected to increase the recycling of metals, solvents, and other materials. Submit comments to [Gary Koerber](#) by 18 Feb 04. The Federal Register document is available at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2003_register&docid=fr29de03-22.pdf. More information is available at: <https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/29Dec03/19.doc.html> [Table of Contents](#)

Recovered Materials Advisory Notice: Manure And Biosolids^{vi}

EPA has released a draft Recovered Materials Advisory Notice (RMAN V) and proposed rule that will revise the current compost designation to include compost made from manure or biosolids, and designate fertilizers made from recovered organic materials. EPA is also proposing to consolidate all compost designations under one item called "compost made from recovered organic materials." Submit comments to [Gary Koerber](#) by 2 Feb 04. More information is available at:

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/e.docket.access.gpo.gov/2003/pdf/03-30267.pdf>

RECYCLING

Deconstruction Guide For Military Installations

The "Deconstruction Guide For Military Installations" is available online. It covers military deconstruction programs, key deconstruction issues, and problems that may occur. The guide is available at:

https://www.denix.osd.mil/denix/Public/Library/Sustain/DC/Documents/decon_guide.pdf [Table of Contents](#)

SPCC

DOT Revises Spill Information Reporting Requirements

According to a final rule published 3 Dec, hazardous materials transporters will be subject to revised reporting requirements for collecting information on spills that occur while the materials are in transit. The rule, published by Department of Transportation's (DOT) Research and Special Program's Administration, also revises the hazardous materials incident reporting form. Each person in physical control of a hazardous material while it is in "transportation in commerce" must report any incident that occurs while the material is in that person's possession. The rule was proposed 3 Jul 01, and is scheduled to take effect 1 Jul 04. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/03Dec03/29.doc.html> [Table of Contents](#)

Do You have To Cleanup Spills Of Biodegradables?^{vii}

Considering that biobased products will biodegrade, should spills of biobased lubricants be handled any differently than spills of petroleum-based lubricants? Will the answer depend on whether or not the product is a blend of biobased and petroleum oils and if so, is there a minimum amount of petroleum content that will affect the answer (i.e., below

this percentage of petroleum, the spill is handled one way, but above the percentage, it is handled another way).

Spills of biobased lubricants are handled in the same manner as spills of petroleum based lubricants. EPA has considered the physical, chemical, biological, and other properties and environmental effects of petroleum oils, vegetable oils, and animal fats, which are the criteria now to be evaluated under the Edible Oil Regulatory Reform Act. EPA finds that petroleum oils, vegetable oils, and animal fats share common physical properties and produce similar environmental effects. Like petroleum oils, vegetable oils and animal fats and their constituents can: 1) Cause devastating physical effects, such as coating animals and plants with oil and suffocating them by oxygen depletion; 2) Be toxic and form toxic products; 3) Destroy future and existing food supplies, breeding animals, and habitats; 3) Produce rancid odors; 4) Foul shorelines, clog water treatment plants, and catch fire when ignition sources are present; and 5) Form products that linger in the environment for many years.

In other words, you spill it, you clean it up!

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SUSTAINABILITY

MOA Brings Military Services And NIBS Together Through The WBDG

Key members of the Naval Facilities Engineering Command (NAVFAC), National Institute of Building Sciences (NIBS), the U.S. Air Force, the U.S. Army Corps of Engineers, and the Office of the Deputy Under Secretary of Defense (ODUSD) signed a Memorandum of Agreement (MOA) on 8 Oct 03 to establish the Whole Building Design Guide (WBDG) as the sole online access point to official, public domain versions of DoD facility criteria. A significant aspect of the agreement allows WBDG users free access to this information. Dennis Talton, Chair of the WBDG Advisory Committee and Head of NAVFAC Sustainability program, explained that the MOA would result in the Navy, Marines, Army, and Air Force directing their personnel and contractors to access their service's information through the WBDG, instead of their individual websites. He is also certain that this new method of access will create synergies that will in turn reduce redundancies and conflicts and allow for greater flexibility when changes

need to be made to documents. The MOA and its intent are available at:

<http://www.maildogmanager.com/link.html?url=27&client=wbdgadmin&campaign=3&email=porterch@pwcnorva.navy.mil> [Table of Contents](#)

LEED™ Taking A More Prominent Position On WBDG Site

The LEED™ (Leadership in Energy and Environmental Design) rating system, developed by the U.S. Green Building Council, provides a framework for assessing building performance and achieving sustainability goals. Increasingly, designing to meet LEED criteria is a requirement for federal and other public projects as well as private-sector projects. LEED also promotes integrated, whole-building design practices. There is a matrix for WBDG resources available at:

http://www.wbdg.org/media/pdf/LEED_V2_1_vs_WBDG.pdf.

WATER

Lawsuit Filed To Force EPA To Regulate Ballast Discharges Under Clean Water Act

Three environmental organizations filed suit 22 Dec to force the EPA to regulate discharges of ballast water from

ships under the Clean Water Act. The lawsuit was filed by Northwest Environmental Advocates, the Ocean Conservancy, and Waterkeepers Northern California in the U.S. District Court for the Northern District of California.

It alleges that a 1973 EPA regulation, 40 C.F.R. 122.3(a), illegally exempts ballast water discharged by vessels from the National Pollutant Discharge Elimination System permit program. The groups petitioned EPA in January 1999 to rescind the regulation. The agency at first did not respond, but then decided in September 2003 to deny the petition, saying the permit exemption for ballast water is justified. The groups say ballast water discharges should be regulated because they are the primary pathways for the introduction of invasive species into U.S. waters. The 122.3 exclusions are available at:

http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40_cfr122_00.html. The complete article is available at: <https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/24Dec03/17.doc.html> [Table of Contents](#)

Comment Period On Draft Blending Policy Extended

The comment period on draft EPA guidance on blending excess stormwater with treated wastewater is being extended 30 days. The story was previously mentioned in the [November newsletter](#). Send comments to [Will Bullard](#) by 2 Feb. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/08Jan04/14.doc.html> [Table of Contents](#)

Handbook For Small Water Systems

Hot off the presses, "Strategic Planning: A Handbook for Small Water Systems", is now available. The Drinking Water Utilities Team recently published the booklet, designed to help small drinking water systems understand the concept of strategic planning and how strategic planning can help them prepare their systems to meet public

expectations and regulatory requirements while maintaining organizational and financial stability in the future. The booklet includes worksheets to assist systems in the strategic planning process. To access the booklet on-line, go to <http://www.epa.gov/safewater/smallsys/ssinfo.htm>. Hard copies can be obtained from the Office of Water Resources Center or by calling the Safe Drinking Water Hotline at (800) 426-4791 (reference Document Number EPA 816-R-03-015). For more information, please contact Andrew Bielanski at (202) 564-3824.

Property Owners Who Install Meters Exempted From Rules Under SDWA

In a notice published in the Federal Register 23 Dec, apartment building and property owners that measure individual use of their tenants' drinking water are not subject to requirements under the Safe Drinking Water Act (SDWA). In a finalized memorandum, EPA said it was revising current policy to promote water conservation. Customers who are billed for the amount of water they consume are encouraged to conserve. Until now, owners of apartment buildings and other properties that met the definition of a public water system and billed tenants for the water through submetering were considered to be "selling the water" and therefore independently subject to full regulatory requirements under SDWA. The federal register document is available at:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2003_register&docid=fr23de03-57.pdf. More information is available at: <https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/23Dec03/11.doc.html> [Table of Contents](#)

STATE NEWS



MARYLAND



Governor Proposes Sewage Surcharge To Fund Wastewater Plant Upgrades

Efforts to improve water quality in the Chesapeake Bay by upgrading wastewater treatment plants would receive a boost from a new sewage fee proposed 8 Jan by Governor Robert L. Ehrlich Jr. The surcharge is intended to help the state's 66 major sewage treatment plants implement enhanced nutrient-removal processes by 2011. Under Ehrlich's plan, businesses would pay an extra \$2.50 per month for every 250 gallons per day of wastewater discharged. The bulk of the estimated \$66 million generated annually would be used as a revenue stream to back up \$750 million to \$1 billion in state revenue bonds needed to fund the system upgrades. Smaller portions of the so-called Chesapeake Bay Restoration Fund would be used to administer the program and to support higher operations and maintenance costs at the upgraded plants,

according to a fact sheet on the governor's proposal. The plan requires legislative approval from the Maryland General Assembly, which will be in session from 14 Jan to 12 Apr. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/12Jan04/15.doc.html>

Governor To Nominate Acting Secretary To Head MDE

Governor Robert L. Ehrlich Jr. announced that he intends to nominate acting Environment Secretary Kendl P. Philbrick to head the Department of the Environment (MDE) on a permanent basis, subject to confirmation by the Maryland Senate. During his time as acting secretary, Philbrick has established five environmental initiatives for Ehrlich's administration, streamlined portions of the state's brownfields restoration program, and surprised some environmentalists by signing on with other Northeastern

states in a court challenge to federal new source review regulations for power plant upgrades. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/12Jan04/21.doc.html>

EPA Approves Regulations To Limit VOC's In More Than 80 Consumer Products

Maryland is allowed to establish emissions limits on volatile organic compounds (VOC) from more than 80 types of consumer products under a direct final rule published 9 Dec by the EPA. The EPA approved revisions



PENNSYLVANIA



PA Supreme Court Affirms Ruling To Invalidate Parts Of Ordinance On Sludge

A Pennsylvania township asked the State Supreme Court on 4 Dec to clarify its ruling to invalidate parts of an ordinance that sought to regulate companies seeking to apply sludge to farmland in the township. At issue in the case is an ordinance enacted in February 2001 by the Township of Upper Mount Bethel in Northampton County. The ordinance imposes a number of obligations on anyone seeking a permit for land application of "biosolids, sludge, septage, or other waste material," including requirements for environmental monitoring and testing of the sludge product. In a ruling that was upheld on appeal, the lower court held that Pennsylvania's Solid Waste Management Act preempts all local regulation of the land application of sludge products. The court also found that the township had exceeded its authority in enacting two provisions of the ordinance because the requirements impose standards that far exceed what is necessary to protect the general welfare, according to the Supreme Court opinion. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/11Dec03/29.doc.html> [Table of Contents](#)

EPA Applauded For Scrapping Plan To Remove Federal Protections From Wetlands

Environmental Protection Secretary Kathleen A. McGinty applauded the EPA for jettisoning plans to remove federal protections from millions of acres of wetlands. The change effectively reverses course on an internal draft regulation



VIRGINIA



VA May Set Numeric Nutrient Limits For Sewage Treatment Plants

Governor Mark Warner announced 9 Dec that Virginia plans to develop numeric, technology-based standards to limit discharges of nutrients from sewage treatment plants.

to Maryland's state implementation plan (SIP) to control VOC emissions from household and industrial products, such as cleaning compounds, floor finishes, personal care products, disinfectants, automotive products, and lawn and care products. The rule applies to entities that manufacture or sell consumer products in Maryland on or after 1 Jan 05. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/09Dec03/12.doc.html> [Table of Contents](#)

that proposed withdrawing federal protections from many isolated wetlands and intermittent streams. Pennsylvania opposed EPA's proposed rule change. Through regulatory and nonregulatory wetland restoration programs, the Commonwealth has gained about 4,800 acres of wetlands over the last 10 years. The complete article is available at:

<http://www.dep.state.pa.us/newsreleases/default.asp?ID=2716> [Table of Contents](#)

EPA, PA Set To Sign Agreement To Address All Cleanups Under One Program

The EPA and the Pennsylvania Department of Environmental Protection are set to enter into an agreement under which owners or developers of contaminated sites could settle their liabilities by following the state's voluntary cleanup program. Under Pennsylvania's proposed plan, the state would be the first whose voluntary cleanup program would allow landowners and developers to address their liabilities under three environmental cleanup laws: the Resource Conservation and Recovery Act; the Comprehensive Environmental Response, Compensation, and Liability Act, or superfund; and the Toxic Substances Control Act, which regulates the cleanup of polychlorinated biphenyls. PCBs are found in soil at a significant number of contaminated sites across the country. More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/22Dec03/14.doc.html> [Table of Contents](#)

The announcement followed a meeting of the Chesapeake Bay Executive Council, which consists of the governors of Maryland and Virginia, the mayor of Washington and the administrator of the EPA. Warner, who chairs the executive council, also announced a plan to make restoring

the bay an issue of national importance and said he wants to model the effort on the federal and state collaboration set up to restore the Everglades in Florida. Some of his initiatives include plans to restore 10,000 miles of riparian forest buffers along tributaries to the bay; restore 185,000 acres of underwater grasses in the bay, up from the current 89,658 acres; and amend the blue crab fishery management

plan to set new limits on the crab harvest. There is a letter by Secretary W. Tayloe Murphy on the subject available at:

http://www.cnrma.navy.mil/REC/bay_news.htm.

More information is available at:

<https://www.denix.osd.mil/denix/DOD/News/Pubs/DER/10Dec03/29.doc.html> [Table of Contents](#)

CHESAPEAKE BAY PROGRAM

CBF Files Legal Action To Compel EPA To Enforce Clean Water Act

Charging that the EPA and the Bay watershed states (Maryland, Virginia, Pennsylvania, New York, Delaware, West Virginia, and the District of Columbia) have failed to enforce the Clean Water Act, the Chesapeake Bay Foundation (CBF) took legal action and formally petitioned the EPA, demanding that water discharge permits for sewage treatment plants and industrial facilities include adequate, enforceable effluent limits on nitrogen pollution. Nitrogen pollution is the most significant problem facing the Chesapeake Bay, which has been formally placed on the nation's list of dirtiest waters. Currently, both EPA and Bay watershed states routinely fail to include restrictions on nitrogen pollution in Clean Water Act permits.

The Clean Water Act, enacted in 1972, requires the EPA and the states to issue permits for all sewage treatment plants and industrial dischargers--the Bay's second largest source of nitrogen pollution--that are sufficiently stringent to protect water quality in the Chesapeake Bay and its tributaries. The Bay and the tidal portions of its tributaries have been formally designated as impaired by nutrient pollution, but EPA and the states have yet to take the series of actions that are required by law to reduce nitrogen pollution. For specific actions that CBF's petition requests EPA to do and more information, go to:

<http://www.cbf.org/site/News2?page=NewsArticle&id=781>

1. The petition is available at:

http://www.cbf.org/site/DocServer/EPA_petition_final_120103.pdf?docID=1244 [Table of Contents](#)

ECO TIPS OF THE MONTH

Jack Frost Fighting Tips^{viii}

During this frigid time of year, our heaters and pocketbooks work overtime to battle the cold. Here are some tips to help keep some of your green in your wallet and help protect the environment while you're at it.

- Thermo insulated blinds and drapes guard against heat loss in winter. There are fewer drafts and heating bills are lower. Energy efficiency reduces emissions contributing to global warming.
- Set the thermostat at 70°F for relaxing and 63°F for sleeping or when you're away. You'll save on the heating bill, and save energy!
- When you're busy around the house, turn down the thermostat. Your own energy will keep you warm, and you'll save on the heating bill.
- Save on your annual heating costs with a programmable thermostat to turn down the heat while you're sleeping or away. For every degree you turn it down, you can save 2% on your energy bills.
- Buying new windows? Ask about air leakage and glazing systems with special low-e coatings, and gas fill between the panes. There's less heat loss, and less heat cost!
- Save on water heating costs with an insulation blanket on the hot water tank and insulation tubes on hot water pipes. Keep it hot and use less energy! [Table of Contents](#)

CONTINUING EDUCATION

CONFERENCES

30th Environmental And Energy Symposium & Exhibition, 5-8 APR 04, San Diego, CA

The National Defense Industrial Association presents the 30th Environmental and Energy Symposium & Exhibition. The theme of this year's symposium is "DoD Transformation Leading Towards Results-Based Environmental And Energy Programs." The Manchester

Grand Hyatt San Diego is the headquarter hotel for the symposium. For reservations, call (619) 232-1234. For more information on how your organization can increase it's exposure at this event, please contact [Sam Campagna](#) at (703) 247-2544. [Table of Contents](#)

TRAINING

Natural Resources Compliance Course, 27-30 JAN 04, 22-25 JUN 04, San Antonio, TX, Aberdeen, MD

This is an ISEERB-approved course. The course offers instruction in specific natural resources law, regulations, policies, Executive Orders, DOD instructions, and other guidance, noting Service-specific requirements. The course addresses stewardship, preservation and process; fish, game and wildlife management laws; protection of wetlands, waterways and other protected ecological areas; forest and land use management laws; and inter-service cooperation. For further information, visit <https://www.cecos.navy.mil>.

EMS Training For Federal Facilities, 11-13 FEB 04, Richmond, VA

EPA Region III is hosting an Environmental Management System (EMS) training for Federal facilities. . The title for the training is: **Environmental Management System: Greening the Government through Leadership in Environmental Management.** Registration deadline is Jan 30 04. More information and the registration form are available at:

http://www.epa.gov/reg3ecej/federal_facilities.htm

Introductory Health Risk Communication Workshop, 17-19 FEB 04, 15-17 JUN 04, Washington D.C, Edgewood, MD.

Hosted by USACHPPM, the workshop will provide the participant with a basic understanding of concepts, principles, and process of effective risk communication, including building strategic stakeholder relationships that provide the framework for discussion of complex risk issues. For further information, contact Kita Perry, (410) 436-3515, e-mail: suaquita.perry@apg.amedd.army.mil, or visit the website at:

<http://chppm-www.apgea.army.mil/risk/> [Table of Contents](#)

Historic Preservation Law And Section 106 Compliance Course, 24-26 FEB 04, 20-22 APR 04, 20-22 JUL 04, Jacksonville, FL, San Antonio, TX, Annapolis, MD

The course emphasizes legal compliance (the National Historic Preservation Act Section 106 process) through the use of actual case studies. It addresses legislation and the process to meet the requirements of the law. Course content includes the stewardship role, use of historic properties, and communications with related oversight agencies. This is an Inter-Service Environmental Education Review Board (ISEERB) - approved course. For further information, visit <https://www.cecos.navy.mil> [Table of Contents](#).

2nd Annual Environmental Training Symposium, 1-5 MAR 04 Kansas City, MO

Hosted by the US Army Engineer School, the symposium offers an excellent opportunity to train individuals at minimal cost. There is no charge for the training. Training topics include: (1) satellite accumulation point operator, 2) hazardous material handler; (3) HAZWOPER 8 hour refresher, 4) P2, and (5) spill prevention and response. For further information, contact James Flores, US Army, (573) 563-4124. [Table of Contents](#)

Introduction To Cultural Resource Management Laws and Regulations 16-18 MAR 04, 17-19 AUG 04, New Orleans, LA, Bangor, ME

This is an ISEERB - approved course. The course provides an integrated overview of all pertinent laws and regulations needed to understand and fulfill cultural resource management responsibilities. For further information, visit <https://www.cecos.navy.mil> [Table of Contents](#).

Qualified Recycling Program Course Multiple Dates/Multiple Locations

The course provides hands-on training on how to identify and market recyclable materials. The course is for any person or organization that generates recyclable materials, is associated with an installation recycling program or DoD precious-metals recovery program, or works for a Defense

Reutilization and Marketing Office (DRMO). For further information, visit the Environmental Management Department's course information website at:

<http://www.almc.army.mil/EMD/Page5.html>

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EPA Regions 1, 2, 3, & 5 Training Courses Multiple Dates/Multiple Locations

EPA Regions 1, 2, 3, & 5 continually offer training on a variety of subjects. For further information regarding the types of courses, dates, and locations, visit EPA's training exchange website at: www.trainex.org [Table of Contents](#)

FY04 Capital Hill Workshop, Washington DC

A 4-day workshop is being held in Washington DC. The workshop is Navy specific. It focuses on the current status and insider analysis of legislative issues of most interest and importance to officials of the Department of the Navy. The workshop, made possible by the Government Affairs Institute, is on multiple dates with a tuition cost of \$800. Dates, deadlines and details are available at

<http://www.georgetown.edu/ssce/gai> [Table of Contents](#)

MEET THE REC

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For old issues go to [Denix](#) or [REC Newsletters](#).

ⁱ Weekly Federal Register Summary, 12/21/03-12/31/03, Prepared By Naval Facilities Engineering Service Center

ⁱⁱ Weekly Federal Register Summary, Week 12/14/2003, Prepared By Naval Facilities Engineering Service Center

ⁱⁱⁱ Weekly Federal Register Summary, Week of 12/14/2003, Prepared By Naval Facilities Engineering Service Center

^{iv} Weekly Federal Register Summary, Week of 12/14/2003, Prepared By Naval Facilities Engineering Service Center

^{vv} Weekly Federal Register Summary, 12/21/03-12/31/03, Prepared By Naval Facilities Engineering Service Center

^{vi} Weekly Federal Register Summary, Week 12/7/2003, Prepared By Naval Facilities Engineering Service Center

^{vii} <http://www.epa.gov/oilspill/vegoil.htm>

^{viii} <http://www.ecobeetle.com/tips.htm>